

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

United States of America,

Case No. 14CR403

Plaintiff,

v.

ORDER

Susan M. Pioch, et al.,

Defendant.

Pending in this case is a motion by defendant Mallory for an order directing the government to provide a Rule 404(b) Notice thirty days before trial. (Doc. 76). The government opposes the motion.

I grant the motion, though I direct the government to file such Notice on or before August 17, 2015. Motions *in limine* responsive to such Notice will be due August 31, 2015; opposition to such motions will be due September 10, 2015; replies will be due September 15, 2015.

Fed. R. Evid. 404(b) requires that the government is to give “reasonable notice” of its intent to introduce “other acts” evidence. As the government’s opposition makes clear, courts are generally deferential to the government’s reluctance to provide such notice more than, at most, a couple of weeks before trial.

The defendant asks that I order that he receive a 404(b) Notice not later than thirty days before trial. While that may be sufficient for defense counsel to determine whether to challenge the admissibility of any such evidence, I want to be as certain as possible that I have adequate

opportunity to rule on any motions *in limine* as to such evidence well before trial. Having the opportunity to do so will enable fair adjudication, put all counsel on notice of what is and is not admissible, and avoid pre-trial delay and mid-trial disruption.

Counsel have indicated that this is a paper-heavy case, and that the defense expects to put the government to its proof. That being so, I anticipate that there may be a fair amount of work for me to tend to as trial nears. My own schedule during September is such (including, among other things, a two week trial in another District), I conclude that calling on the government to provide its 404(b) Notice according to the schedule I set herein is appropriate – indeed, necessary – from *my own* standpoint.

It is, accordingly,

ORDERED THAT;

1. The government shall provide any 404(b) Notice, and the parties shall move and brief *in limine* issues relating to such Notice, in accordance with the schedule set herein; and
2. Prior orders re. other deadlines prior to trial are confirmed.

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge